

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony in SUPPORT of S.B. 1405, SD2, HD1
RELATING TO ELECTRONIC SMOKING PRODUCTS**

REPRESENTATIVE ROY M. TAKUMI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

REPRESENTATIVE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: March 20, 2019

Room Number: 329

1 **Fiscal Implications:** The Department of Health (DOH) defers to the Department of Taxation
2 (DOTAX) for fiscal implications of implementation and to the Department of the Attorney
3 General (AG) for fiscal implications for enforcement.

4 **Department Testimony:** The DOH supports Senate Bill 1405, Senate Draft 2, House Draft 1
5 (S.B. 1405, SD2, HD1) as a measure to protect the public's health, especially youth, from the
6 harmful effects of tobacco use and initiation. The bill makes unlawful the shipping of e-liquid
7 products to consumers except for licensed wholesalers or dealers. It provides for the inclusion of
8 e-liquid and electronic smoking devices containing e-liquid in the definition of tobacco products,
9 the imposition of an excise tax, the requirement for licensing and permitting fees, and an increase
10 in licensing and permitting fees. This measure also clarifies the definition of the term "value" to
11 mean "fair market value at the time of the offense," requires applicants for retail tobacco permits
12 to specify whether each place of business sells e-liquid and changes the effective date to March
13 15, 2030. The Department defers to DOTAX for implementation, and to the AG regarding the
14 enforcement of the shipping regulations.

1 Research shows that youth who use e-cigarettes are more likely to become regular
2 cigarette users.^{1,2,3,4} The most recent study found that about 180,000 new smokers and 45,000
3 current smokers in the U.S. may have started smoking combustible cigarettes after initiating
4 ESDs. In Hawaii, and across the nation, despite tremendous progress in reducing smoking,
5 tobacco use remains the leading cause of preventable illness and death.⁵ Most ESDs purchased
6 in the U.S. contain nicotine, which is highly toxic and addictive.⁶ The U.S. Federal Drug
7 Administration (FDA) defines tobacco products as any product that is derived from tobacco and
8 meant for human consumption. The regulation of electronic smoking devices (ESDs) under the
9 FDA tobacco authority was determined by a 2010 court decision in 2010 in *Sottera, Inc. vs*
10 *FDA*. If the products are for therapeutic purposes, these are regulated by the FDA's Center for
11 Drug Evaluation and Research (CDER).⁷

12 The Department is greatly concerned about ESDs as a youth issue. Young people who
13 have never smoked cigarettes are using ESDs at levels that rival past high school smoking rates.
14 In Hawaii 26% of public high school students reported using ESDs, compared to 14%
15 nationally, and Hawaii's middle school rates of current ESD users is 16%. Only 4.7% of adults
16 in Hawaii report current use of ESDs.^{8,9} Youth ESD use rates are also increasing across the

¹ Watkins SL, Glantz SA. Association of Noncigarette Tobacco Products Use with Future Cigarette Smoking Among Youth in the Population Assessment of Tobacco and Health (PATH) Study, 2013-2015. *JAMA Pediatric*. Published online January 2, 2018.

² Barrington-Trimis, JL, Urman, R, Berhane, K, Unger, JB, Cruz, TB, Pentz, MA, Samet, JM, Leventhal, AM, McConnell, R. E-Cigarettes and Future Cigarette Use. *Pediatrics*.2016-0379.

³ Wills, TA, Knight, R, Williams, RJ, Pagano, I, Sargent JD. Risk Factors for Exclusive E-Cigarette Use and Dual E-Cigarette Use and Tobacco Use in Adolescents. *Pediatrics*. 2014-0760.

⁴ Berry, et al. Association of Electronic Cigarette Use with Subsequent Initiation of Tobacco Cigarettes in US Youths. *JAMA Open Netw Open*. 2019; 2(2):e187794.doi:10.1001/jamanetworkopen.2018.7794.

⁵ Centers for Disease Control and Prevention. *Best Practices for Comprehensive Tobacco Control Programs, 2014*. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014

⁶ Marynak, et al. Sales of Nicotine-Containing Electronic Cigarette Products: United States, 2015. *Research and Practice*, AJP, published online March 21, 2017.

⁷ <https://www.fda.gov/TobaccoProducts/GuidanceComplianceRegulatoryInformation/Manufacturing/ucm335294.htm>.

⁸ Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Population Health. BRFSS Prevalence & Trends Data [online]. 2015. [accessed Mar 08, 2019]. URL: <https://www.cdc.gov/brfss/brfssprevalence/>.

⁹ Hawaii State Department of Health 2017 Youth Risk Behavior Survey. Hawaii Health Data Warehouse

1 U.S.. From 2017 to 2018, there was a 78% surge in current ESD use nationally among high
2 school students and a 48% increase among middle school students.¹⁰

3 The need for state action to protect youth from the promotion of ESDs is imperative. On
4 March 13, 2019, departing U.S. Food and Drug Administration (FDA) Commissioner Scott
5 Gottlieb released draft guidance on proposed restrictions for flavored ESDs and cigars, including
6 how and where they are sold. He described teen vaping as an “epidemic” and was a harsh critic
7 of ESD companies and the proliferation of kid-friendly flavors. The Department respectfully
8 requests the help of the State Legislature to support legislation to protect children in Hawaii,
9 since a federal ban on flavored tobacco products and restrictions on how and where they are sold
10 is still uncertain. The passage of S.B. 1405, SD2, HD1 would be a significant policy to close the
11 market of appealing products that are addicting our youth and young adults to nicotine.

12 The Department supports the restriction of shipping tobacco products to anyone other
13 than a licensed wholesaler/dealer, that is engaged in the business of selling tobacco products
14 and is on the DOTAX authorized list. This will strengthen protections for youth and young
15 adults and provide a public health policy to counter the preferred purchasing method by middle
16 and high school student ESD users; 64 percent and 60 percent, respectively said they purchase
17 from friends.¹¹

18 Hawaii is among five states (including California, Oregon, New Jersey, and Maine) in the
19 country that prohibit the sales of tobacco products to any person under the age of twenty-one
20 years. Such legislation specifically addresses face-to-face transactions and is meant to prevent
21 youth access and initiation of tobacco use. However, the acceleration of online tobacco product
22 sales has created a dangerous loophole, undermining efforts to protect public health, by
23 providing an appealing option for underage smokers. In the current unregulated online market,
24 youth easily, and often, circumvent the age verification process for purchasing tobacco. In some

¹⁰Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students- United States, 2011
2018. [Morbidity and Mortality Weekly Report, Centers for Disease Control and Prevention. November 16, 2018/67\(45\):1276-1277](#) (n.d.), 2.

¹¹ Hawaii School Health Survey/Youth Tobacco Survey (2017)

1 transactions age verification simply requires the consumer to acknowledge that a person is over
2 the legal age to purchase by clicking the word, “agree,” to advance the transaction.

3 The Internet Tobacco Vendors Study (ITV), supported by the National Cancer Institute
4 and the United States Food and Drug Administration (USFDA) Center for Tobacco Products, has
5 monitored the online tobacco industry for over fifteen years, to assess sales practices and public
6 health impacts. In 2016, its study found that minors were successful in buying ESDs online 93
7 percent of the time despite age restrictions. Another study found that ESDs were often shipped
8 from internet vendors without instructions or health warnings. Due to the easy access for minors
9 through online marketing, researchers recommend more vigorous policies to prohibit sales to
10 minors.^{12,13}

11 Unregulated online access provides a way for the purchaser and tobacco industry to avoid
12 federal and state taxes, resulting in loss of revenue and evasion of an important public health tool
13 for prevention.¹⁴ Youth are price sensitive and online purchasing options are a less expensive
14 method for acquiring tobacco products including ESDs. Hawaii has seen ESD use by youth and
15 young adults increase at an alarming rate.¹⁵ ESDs are now the most commonly used tobacco
16 product among youth in the nation, and in Hawaii.^{16,17} The electronic cigarette industry is
17 growing rapidly, with retail and online sales of electronic smoking devices projected to reach 10

¹² Williams RS, Derrick J, Ribisl KM. Electronic Cigarette Sales to Minors via the Internet. *JAMA Pediatric*. 2015;169(3): e1563.
doi:10.1001/jamapediatrics.2015.63.

¹³ Kong AY, Derrick JC, Abrantes AS, Williams RS. *What is included with your online e-cigarette order? An analysis of e-cigarette shipping, product and packaging features. Tobacco Control*. [Epub ahead of print] June 29, 2016. doi:10.1136/tobaccocontrol-2016-053061.

¹⁴ *The National Association for Convenience and Fuel Retailing*: <http://www.nacsonline.com/Advocacy/Issues//Tobacco/Pages/RemoteSalesofTobacco.aspx>

¹⁵ Hawaii State Department of Health, *2016-2020 Tobacco Use Prevention and Control in Hawaii, Five-Year Strategic Plan*, p.25.

¹⁶ U.S. Centers for Disease Control and Prevention (CDC), *“Tobacco Use Among Middle and High School Students — United States, 2011- 2015,” Morbidity and Mortality Weekly Report (MMWR) 65(14):361-367, April 14, 2016,*
<http://www.cdc.gov/mmwr/volumes/65/wr/pdfs/mm6514a1.pdf>

¹⁷ Hawaii State Department of Health, *Youth Risk Behavior Survey (2015)*

1 billion dollars in 2017.^{18,19} The pricing, marketing, and variety of youth-friendly flavors are
2 contributing to the increased use of ESDs.²⁰

3 The Department supports the measure's proposed amendment that requires wholesalers
4 and retailers of e-liquids and ESDs containing e-liquid, to obtain the applicable license or permit.
5 Presently, vendors that sell only ESDs are required to have only a General Excise License
6 compared to establishments that sell cigarettes and other tobacco products. In adherence to Act
7 206, of 2018 session laws, requiring the AG to establish an Electronic Smoking Device Retailer
8 Registration Unit, 640 entities that sell ESDs have registered to date. Licensure and retail
9 permitting would bring e-liquid vendors in alignment with the traditional tobacco retailers and
10 would provide accurate data for compliance and surveillance.

11 The proposed increases in licensure and permitting fees have remained unchanged since
12 1995, despite high tobacco taxes and ever-increasing tobacco industry expenditures in marketing
13 and advertising. Tobacco licensing is an effective tool for limiting the negative public health
14 consequences of tobacco use by ensuring that wholesalers and retailers comply with responsible
15 sales practices. The proposed licensing would apply to those who sell e-liquids.

16 The Department continues to support S.B. 1405, SD2, HD1 as a strong and
17 comprehensive measure that address the key regulatory components that can reduce access to
18 ESDs among Hawaii's youth and young adults and encourage users to quit.

19 Thank you for the opportunity to testify.

20 **Offered Amendments:** None

¹⁸ Herzog B, Gerberi J. *E-Cigs revolutionizing the tobacco industry, 2013*. <http://www.smallcapfinancialwire.com/wp-content/uploads/2013/11/E-Cigs-Rovolutionizing-the-Tobacco-Industry-Interactive-Model.pdf>

¹⁹ Craver, R. (September 15, 2013). Analyst projection: *E-cigs will overtake traditional tobacco revenue at Reynolds in 2021*. *Winston-Salem Journal*. http://www.journalnow.com/business/business_news/local/analyst-projection-e-cigs-will-overtake-traditional-tobacco-revenue-at/article_948674ca-1ca9-11e3-a0ae-0019bb30f31a.html

²⁰ *ibid*

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

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DEPARTMENT OF TAXATION**

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To: The Honorable Roy M. Takumi, Chair
and Members of the House Committee on Consumer Protection & Commerce

The Honorable Chris Lee, Chair
and Members of the House Committee on Judiciary

Date: Wednesday, March 20, 2019
Time: 2:00 P.M.
Place: Conference Room 329, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 1405, S.D. 2, H.D. 1, Relating to Electronic Smoking Products

The Department of Taxation (Department) supports S.B. 1405, S.D. 2, H.D. 1, and offers the following comments for the Committee's consideration. A summary of the key provisions of S.B. 1405, S.D. 2, H.D. 1 are as follows:

- Adds a new section making it a misdemeanor or felony to ship e-liquid products in the State unlawfully;
- Adds a new definition for the terms "e-liquid," "electronic smoking device" and "smoke" or "smoking";
- Amends the definition of "tobacco products" to include e-liquid;
- Raises the fee for a tobacco wholesaler or dealer license from \$2.50 annually to \$250 annually;
- Raises the fee for a tobacco retailer permit from \$20 per location annually to \$50 per location annually;
- Amends the allocation of revenue collected under the cigarette stamp tax to provide \$100,000 to Hawaii Tobacco Prevention and Control Trust Fund and \$100,000 to the University of Hawaii Cancer Center;
- Repeals Chapter 28, Part XII, Hawaii Revised Statutes (HRS), which created the Electronic Smoking Device Retailer Registration Unit in the Department of the Attorney General;
- Repeals Section 245-17, HRS, relating to delivery sales of electronic smoking devices;
- Has a severability clause stating that if any provision is held invalid it does not affect the other portions of the measure; and
- Has a defective effective date of March 15, 2030.

The Senate Committees that heard this measure previously made changes to this measure at the Department's request. The Department appreciates the consideration of its testimony and notes that it can administer this bill as currently drafted, but requests a January 1, 2020 effective date to allow time for the Department to make updates to its forms, instructions, and computer system.

Thank you for the opportunity to provide testimony in support of this measure.

**TESTIMONY IN SUPPORT OF SB1405
RELATING TO ELECTRONIC SMOKING PRODUCTS**

I am writing in support of SB1405, which would tax electronic smoking devices, more commonly known as e-cigarettes. E-cigarettes are sometimes called "e-cigs," "vapes," "e-hookahs," "vape pens," and "electronic nicotine delivery systems (ENDS)." Some e-cigarettes look like regular cigarettes, cigars, or pipes. Some look like USB flash drives, pens, and other everyday items.

The results of a comprehensive review of available evidence done by U.S. Surgeon General in 2016 concluded that tobacco use among youth and young adults in any form, including e-cigarettes, is not safe, and that in recent years, e-cigarette use by youth and young adults has increased at an alarming rate, becoming the most commonly used tobacco product among youth in the United States and in Hawaii.

The report also warned that since e-cigarettes are tobacco products that deliver nicotine, which is a highly addictive and toxic substance, they may pose the risk that many of today's youth who are using e-cigarettes could become tomorrow's cigarette smokers to continue to feed their nicotine addiction. Moreover, nicotine exposure can harm brain development in ways that may affect the neurological development and mental health of children and adolescents.

Increases in tobacco taxes decrease tobacco use. Raising taxes on tobacco and thereby increasing its price is one of the most effective ways to reduce tobacco use. Prices affect virtually all measures of tobacco use, including per-capita consumption, smoking rates and the number of cigarettes smoked daily. These effects apply across a wide range of racial and socioeconomic groups.

Currently, everyone other tobacco product in our state is taxed except for e-cigarettes. For the sake of parity in how we tax tobacco products, I urge you to support **SB1405**, which would tax electronic smoking devices, more commonly known as e-cigarettes.

Liane Khong
Print Name

Kunehue, Hawaii, 96744
City Zip Code

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Anne Dang
Print Name

Hon, Hawaii, 96813
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IRALEE J. BAYARTAN
Print Name

WAIHANA, Hawaii, 96786
City Zip Code

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Robert Oda

Print Name

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Kimberly Sakamoto
Print Name

Kailua, Hawaii, 96734
City Zip Code

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Kimberly Li
Print Name

Honolulu, Hawaii, 96814
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SEL BRUNO
Print Name

Kailua, Hawaii, 96734
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Walter Siefker
Print Name

Honolulu, Hawaii, 96822
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Valerie Tora

Print Name

Honolulu

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Kristen Nguyen
Print Name

Honolulu, Hawaii, 96822
City Zip Code

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Christal Rapp

Print Name

Honolulu
City

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Zip Code

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Gavin Armistead
Print Name

Honolulu, Hawaii, 96822
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Sapoulyn Powave
Print Name

Pearl City, Hawaii, 96782
City Zip Code

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Kiran Datwani
Print Name

Honolulu, Hawaii, 96822
City Zip Code

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Kee. Soo
Print Name

Honolulu, Hawaii, 96868
City Zip Code

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GARY ASATO
Print Name

MILILANI, Hawaii, 96789
City Zip Code

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RELATING TO ELECTRONIC SMOKING PRODUCTS**

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KEVIN WAUGH

Print Name

Honolulu, Hawaii, 96818
City Zip Code

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Jenilee Carbajal
Print Name

Honolulu, Hawaii, 96813
City Zip Code

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Emman Snyu

Print Name

Honolulu, Hawaii, 96813

City

Zip Code

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Angus Wall

Print Name

Honolulu, Hawaii, *96813*

City Zip Code

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Corena Gregorio
Print Name

Maheo, Hawaii, 96822
City Zip Code

**TESTIMONY IN SUPPORT OF SB1405
RELATING TO ELECTRONIC SMOKING PRODUCTS**

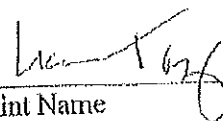
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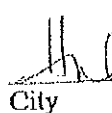
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Rochele Wierzo

Print Name

Honolulu, Hawaii, 96813
City Zip Code

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Karen Kouri
Print Name

Honolulu, Hawaii, 96813
City Zip Code

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Emily Bautista

Print Name

Aiea, Hawaii, 96701
City Zip Code

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Mehima Kang
Print Name

Honolulu, Hawaii, 96822
City Zip Code

**TESTIMONY IN SUPPORT OF SB1405
RELATING TO ELECTRONIC SMOKING PRODUCTS**

I am writing in support of SB1405, which would tax electronic smoking devices, more commonly known as e-cigarettes. E-cigarettes are sometimes called “e-cigs,” “vapes,” “e-hookahs,” “vape pens,” and “electronic nicotine delivery systems (ENDS).” Some e-cigarettes look like regular cigarettes, cigars, or pipes. Some look like USB flash drives, pens, and other everyday items.

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Edmel Ronquillo
Print Name

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City Zip Code

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Samantha DUBOIS
Print Name

Wahiawa, Hawaii, 96786
City Zip Code

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Julienne Saladino

Print Name

Honolulu, Hawaii, 96819

City

Zip Code

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Jairah Mae Pascual
Print Name

Honolulu, Hawaii, 96817
City Zip Code

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Maggie Young
Print Name

Honolulu, Hawaii, 96822
City Zip Code

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Kylee Lopes
Print Name

Honolulu, Hawaii, 96826
City Zip Code

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Destree Lopez
Print Name

Honolulu, Hawaii, 96818
City Zip Code

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RELATING TO ELECTRONIC SMOKING PRODUCTS**

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Correna Lee Knight
Print Name

Aiea, Hawaii, 96701
City Zip Code

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KATHERINE VILLANUEVA
Print Name

KIHU, Hawaii, 96753
City Zip Code

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Jill Chapman
Print Name

Honolulu, Hawaii, 96826
City Zip Code

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Ryan Abe

Print Name

Honolulu, Hawaii, 96815

City

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LISA NAMATAME
Print Name

Honolulu, Hawaii, 96826
City Zip Code

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Alyssa H. Sumibay
Print Name

Honolulu, Hawaii, 96822
City Zip Code

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Xenia Urpanil
Print Name

Lanai, Hawaii, 96763
City Zip Code

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Ashley Choo
Print Name

Honolulu, Hawaii, 96816
City Zip Code

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Lei-Ann Manera
Print Name

Honolulu, Hawaii, 96826
City Zip Code

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Jacqueline L. Espejo
Print Name

Honolulu, Hawaii, 96819
City Zip Code

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RELATING TO ELECTRONIC SMOKING PRODUCTS**

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The results of a comprehensive review of available evidence done by U.S. Surgeon General in 2016 concluded that tobacco use among youth and young adults in any form, including e-cigarettes, is not safe, and that in recent years, e-cigarette use by youth and young adults has increased at an alarming rate, becoming the most commonly used tobacco product among youth in the United States and in Hawaii.

The report also warned that since e-cigarettes are tobacco products that deliver nicotine, which is a highly addictive and toxic substance, they may pose the risk that many of today's youth who are using e-cigarettes could become tomorrow's cigarette smokers to continue to feed their nicotine addiction. Moreover, nicotine exposure can harm brain development in ways that may affect the neurological development and mental health of children and adolescents.

Increases in tobacco taxes decrease tobacco use. Raising taxes on tobacco and thereby increasing its price is one of the most effective ways to reduce tobacco use. Prices affect virtually all measures of tobacco use, including per-capita consumption, smoking rates and the number of cigarettes smoked daily. These effects apply across a wide range of racial and socioeconomic groups.

Currently, everyone other tobacco product in our state is taxed except for e-cigarettes. For the sake of parity in how we tax tobacco products, I urge you to support **SB1405**, which would tax electronic smoking devices, more commonly known as e-cigarettes.

Windsay Freeman
Print Name

Waialua, Hawaii, 96791
City Zip Code

**TESTIMONY IN SUPPORT OF SB1405
RELATING TO ELECTRONIC SMOKING PRODUCTS**

I am writing in support of SB1405, which would tax electronic smoking devices, more commonly known as e-cigarettes. E-cigarettes are sometimes called “e-cigs,” “vapes,” “e-hookahs,” “vape pens,” and “electronic nicotine delivery systems (ENDS).” Some e-cigarettes look like regular cigarettes, cigars, or pipes. Some look like USB flash drives, pens, and other everyday items.

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Ryan Tsang

Print Name

Honolulu, Hawaii, 96820

City

Zip Code

**TESTIMONY IN SUPPORT OF SB1405
RELATING TO ELECTRONIC SMOKING PRODUCTS**

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CARNE Talamo
Print Name

Hon, Hawaii, 96817
City Zip Code

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RELATING TO ELECTRONIC SMOKING PRODUCTS**

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Shana Takahashi
Print Name

Kaneohe, Hawaii, 96744
City Zip Code

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RELATING TO ELECTRONIC SMOKING PRODUCTS**

I am writing in support of SB1405, which would tax electronic smoking devices, more commonly known as e-cigarettes. E-cigarettes are sometimes called “e-cigs,” “vapes,” “e-hookahs,” “vape pens,” and “electronic nicotine delivery systems (ENDS).” Some e-cigarettes look like regular cigarettes, cigars, or pipes. Some look like USB flash drives, pens, and other everyday items.

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Joel Domingo
Print Name

Honolulu, Hawaii, 96819
City Zip Code

**TESTIMONY IN SUPPORT OF SB1405
RELATING TO ELECTRONIC SMOKING PRODUCTS**

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LEILANI CURTIS
Print Name

HAOLE KAA, Hawaii, 96815
City Zip Code

**TESTIMONY IN SUPPORT OF SB1405
RELATING TO ELECTRONIC SMOKING PRODUCTS**

I am writing in support of SB1405, which would tax electronic smoking devices, more commonly known as e-cigarettes. E-cigarettes are sometimes called “e-cigs,” “vapes,” “e-hookahs,” “vape pens,” and “electronic nicotine delivery systems (ENDS).” Some e-cigarettes look like regular cigarettes, cigars, or pipes. Some look like USB flash drives, pens, and other everyday items.

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Candice Shintani
Print Name

Mililani, Hawaii, 90789
City Zip Code

SB-1405-HD-1

Submitted on: 3/15/2019 9:51:27 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mariner Revell	Irie Hawaii Stores	Oppose	No

Comments:

I strongly oppose this bill. It is hard enough being a small business in Hawaii dealing with Big box stores, amazon, and other online sellers. As an employer, we pay some of the highest fees in the nation for taxes, workers comp insurance, disability insurance, unemployment insurance, liability insurance, employee benefits, health insurance, license fees, and more. According to CNBC Hawaii is ranked 47 out of 50 states for the worst place to do business due to the states regulations, taxes, fees etc. It is very tough to do business in Hawaii.

Doing business in Hawaii is very hard due to big box store and online competition, and all of the states regulations, fees, and taxes. Please do not make it harder on us small businesses with the addition of more regulation and more taxes. I strongly oppose this bill. Mahalo for your time.



**Testimony to the House Joint Committee on Consumer Protection and Commerce and
Judiciary
Wednesday, March 20, 2019; 2:00 p.m.
State Capitol, Conference Room 329**

**RE: SUPPORTING SENATE BILL NO. 1405, HOUSE DRAFT 1, RELATING TO ELECTRONIC
SMOKING PRODUCTS.**

Chair Takumi, Chair Lee, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS** Senate Bill No. 1405, House Draft 1, RELATING TO ELECTRONIC SMOKING PRODUCTS.

The bill, as received by your Committee, would:

- (1) Apply the excise tax on tobacco products on e-liquid;
- (2) Require retailers of e-liquid to obtain a retail tobacco permit to sell, possess, keep, acquire, distribute, or transport e-liquid, and specify whether each place of business sells e-liquid.;
- (3) Prohibit the unlicensed wholesale and retail sale of e-liquid;
- (4) increase the license fee for the wholesale and retail sale of cigarettes and tobacco products;
- (5) Increase the fee for the retail tobacco permit;
- (6) On July 1, 2019, and thereafter, deposit \$100,000 in tobacco tax revenue to the Hawaii Tobacco Prevention and Control Trust Fund, and \$100,000 to the University of Hawaii Cancer Center to support tobacco and cancer prevention research;
- (7) Provide for severability if any provision is invalidated; and

(8) Take effect on March 15, 2030.

Federally Qualified Health Centers (FQHCs) provide desperately needed medical services at the frontlines in rural communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of health.

FQHCs have long seen first-hand how tobacco has literally destroyed the lives of our patients and their families. Because of the ubiquity of cigarettes, chewing tobacco, and now electronic smoking devices, the impacts of tobacco affect our citizenry on a generational basis with people experimenting at even earlier ages.

It is for this reason that the HPCA joins the Hawaii Public Health Institute and other advocates in strong support of all efforts to rid the marketplace of these products.

In advance, thank you for your consideration of our testimony.

SB-1405-HD-1

Submitted on: 3/17/2019 5:32:58 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Zehner	Hawaii Smokers Alliance	Oppose	No

Comments:



1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

Corey Rosenlee
President

Osa Tui Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE AND THE COMMITTEE ON JUDICIARY

RE: SB 1405, SD2, HD1 - RELATING TO ELECTRONIC SMOKING PRODUCTS

WEDNESDAY, MARCH 20, 2019

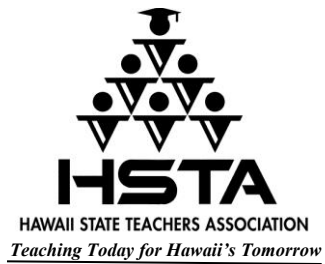
COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Takumi, Chair Lee, and Members of the Committees:

The Hawaii State Teachers Association **strongly supports SB 1405, SD2, HD1** which provides a multi-faceted approach to deter the usage of electronic smoking products. This bill establishes the offense of unlawful shipment of e-liquid products, includes e-liquid and e-smoking devices containing e-liquid within the definition of “tobacco products” in the cigarette tax and tobacco tax law, increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products, increases the retail tobacco permit fee for retailers engaged in the retail sale of cigarettes and tobacco products, and allocates a portion of funds collected from excise taxes on tobacco products to programs that educate youth about the risks and dangers of the use of e-smoking products.

The use of e-smoking products among youth is at epidemic levels. According to data from the Centers for Disease Control and Prevention and the Food and Drug Administration’s National Youth Tobacco Survey, **the percentage of high school-age children reporting past 30-day use of e-cigarettes rose by more than 75 percent between 2017 and 2018.** Use among middle school-age children also increased nearly 50 percent. Furthermore, 1 in 5 high school students reported using e-cigarettes in the past month according to the Surgeon General.

Locally, Hawaii’s 2017 Youth Risk Behavior Survey revealed that over 42% of Hawaii high school students have tried using electronic smoking devices and over 25% of Hawaii high school students indicated that they are regular users.



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Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

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Wilbert Holck
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Adolescence in a time of crucial brain development; it has been documented that nicotine exposure during adolescence and young adulthood can cause addiction and harm the developing brain. Additionally, nicotine is not the only harmful ingredient in electronic smoking devices; other harmful and potentially harmful ingredients include ultrafine particles that can be inhaled deep into the lungs, flavorings such as diacetyl, a chemical linked to serious lung disease, volatile organic compounds, and heavy metals such as nickel, tin, and lead.

Finally, another hazard of electronic smoking devices lies in the fact that teens and young adults who use these products have been found to be more likely to try regular tobacco products within a year.

The electronic cigarette industry has gone largely unregulated and has therefore been able to aggressively market these products with minimal constraints. It is time to proactively deter e-cigarette usage among our youth; this is why the Hawaii State Teachers Association is asking your committees to **support** SB 1405 SD2, HD1.



American Heart Association testimony in SUPPORT of SB 1405, SD2, HD1 Relating to Electronic Smoking Products

Chairman of the Board

Mark Yamakawa

President

Kahealani Rivera, MD

Board Members

Rick Bruno, MD, FACEP

Brandt Farias

Mimi Harris

David Honma

Glen Kaneshige

Brandon Kurisu

Howard Lee

Michael Lui, MD

Kazuma Nakagawa, MD,

FAAN, FAHA

Barbara Petrus

Andrew Rosen

Dave Underriner

Elisa Yadao

The American Heart Association supports SB 1405, SD2, HD1 which makes unlawful shipment of E-liquid products to anyone other than a licensee or permittee, includes e-liquid within the definition of “tobacco products” within existing cigarette tax and tobacco tax state law, increases the license fee for wholesalers or dealers and the retail tobacco permit fee, and allocates a portion of the tobacco tax revenue into the State Tobacco Prevention and Control Trust Fund.

While Federal law already prohibits the delivery and shipment of cigarettes, adding a state restriction on the direct delivery and shipment of electronic smoking devices to consumers would help to close the online sales loophole of those products and help to protect Hawaii’s youth from unscrupulous marketers of those products.

Internet sales of tobacco products and e-cigarettes are a significant public health concern because they evade state taxes and significantly undermine tobacco control efforts. In Hawaii, it is currently illegal to sell tobacco products, including e-cigarettes, to those under the age of 21. Hawaii’s age to 21 law plays a critical role in preventing youth initiation and addiction to tobacco products, yet internet sellers can circumvent this restriction by providing easy access to these products.

E-cigarettes are now the most popularly used tobacco product among Hawaii’s youth. According to recent Department of Health data, approximately 42 percent of Hawaii’s youths have tried e-cigarettes, and 25 percent are now regular users. On neighbor island, regular use of e-cigarettes by youths tops 30 percent. This is concerning because e-cigarettes often contain nicotine and serve as a gateway to traditional cigarette use. Recent studies also indicate that e-cigarettes produce the same cardiovascular and respiratory risks as traditional cigarettes. A study presented at the American Stroke Association’s International Stroke Conference held last month at the Hawaii Convention Center finds that using e-cigarettes may increase the odds of having a stroke, heart attack and coronary heart disease. The researchers found compared with non-users, e-cigarette users had:

- 71 percent higher risk of stroke;
- 59 percent higher risk of heart attack or angina;
- 40 percent higher risk of coronary heart disease; and
- Double the rate of cigarette smoking.

By adding e-liquid within the definition of the state’s “tobacco products” it would apply the tobacco tax to those products. This would have the greatest impact on reducing e-cigarette use rates among the youth market, which is more price sensitive, and which is the most highly targeted by tobacco industry marketing and advertising.

In Hawaii, tobacco use claims 1,400 lives each year and creates \$526 million in annual health care costs (\$141.7 million of that is covered by the state Medicaid program).

Serving Hawaii since 1948

Mission Statement:

“To be a relentless force for a world of longer, healthier lives.”

For more information on the AHA’s educational or research programs, visit www.heart.org or contact your nearest AHA office.

Office: (808) 377-6630

Fax: (808) 524-0556

Neighbor Islands:

Serviced by the Oahu office

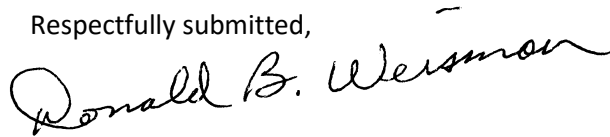
Hawaii residents' state & federal tax burden from tobacco-caused government expenditures is \$836 per household. Hawaii's estimated tobacco tax and license revenue, estimated to be almost \$138.8 million does not come close to offsetting the losses to the state caused by tobacco use. Tobacco use declines related to state taxes directly reduce these smoking-caused economic burdens for all taxpayers, and Hawaii businesses which bear the brunt of employee healthcare costs in our state.

The tobacco industry spends an estimated \$25.5 million each year marketing its products in Hawaii. Hawaii's \$5.3 million investment in tobacco prevention, control and cessation programs pale in comparison, and fall well short of the Centers for Disease Control's (CDC) best practice recommendation of a \$13.7 million annual investment. Allocating revenue generated from taxing tobacco products to community prevention, education and cessation programs would help to increase the desired impact of this legislation by further reducing the use of electronic smoking devices by our youth and most health vulnerable populations.

The American Heart Association urges you to correct the loophole in our state's age restriction, taxation, and public health laws. It is imperative to continue to curtail tobacco use in any form, especially among our youth, if we are to control our state's healthcare costs and keep its Pre-Paid Healthcare law sustainable.

Please support SB 1405, SD2, HD1.

Respectfully submitted,

A handwritten signature in black ink that reads "Donald B. Weisman". The signature is fluid and cursive, with a horizontal line above the name.

Donald B. Weisman
Hawaii Government Relations/Communications Director

SB-1405-HD-1

Submitted on: 3/18/2019 9:23:00 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

I strongly support SB1405 SD2 HD1, which would regulate electronic smoking devices (ESDs) and e-liquids as tobacco products through taxation, online shipment restrictions, and licensing and permitting. In addition, it also appropriates \$200,000 to the tobacco prevention, control, and research.

State lawmakers have been trying to regulate ESDs for the last five years. Hawai'i is in the midst of a youth vaping epidemic, and we must regulate these products to reverse this trend. ESDs are the only tobacco products without a tobacco tax and sellers are not required to obtain a tobacco permit and license to sell. Tobacco taxes and increasing the price is a proven strategy that discourages use of these products, especially among youth. I appreciate that a portion of revenues generated from this tax will be dedicated to tobacco prevention, cessation, education programs, which will help with ESD prevention efforts and support individuals who want to quit. In addition, restricting online sales to retailers with a tobacco license will prevent sales to underage youth.

I strongly support SB1405 SD2 HD1 and ask you to pass this out of committee.

www.WeAreOne.cc

March 20, 2019

RE: SUPPORT SB1405 SD2 HD1 Relating to Electronic Smoking Products

Chairs Takumi & Lee, Vice-Chairs Ichiyama & San Buenaventura, and Members of the Committees:

At Blue Zones Projects we are working to make Hawaii a happier, healthier place to live, work, and play. We support SB1405 SD2 HD1, which will help to regulate sales of electronic smoking devices. In Hawaii alone, smoking causes 1400 adult deaths per year and costs \$256 million. Limiting the use of tobacco would result in an extremely effective way to prevent a variety of chronic diseases while lessening the financial burden of these diseases.

An industry, which is not regulated, cannot be held accountable. This measure would mandate that e-cigarette retailers need to possess the appropriate retail tobacco permit to sell e-cigarettes and liquids, which would result in better oversight of this quickly growing industry. It is impossible to know if a retailer is selling to under 21 if there is no way to track the retailers.

The industry has been left to grow without paying the taxes it should be paying on its products. It is important to bring electronic smoking devices, and their parts, under the same tobacco taxes as other nicotine products. This alignment creates a more clear message to consumers. Furthermore, this measure will increase the cost for a tobacco license from \$2.50 annually to \$250 annually, and the cost of a retail permit will go from \$20 annually to \$50 annually. Even small businesses can pay these minimal raises in fees to be allowed to continue to profit from the sale of tobacco products.

Although Hawaii has one of the strictest laws in the nation prohibiting the sale of tobacco to individuals under the age of 21, our children are easily able to purchase cigarettes and other tobacco products via the Internet. This legislation will address this loophole by only allowing the online purchase and shipment of tobacco products to licensed retailers, where consumers can purchase.

There are still many people in Hawaii who do not truly understand the harmful effects of vaping. Likewise, student surveys with the Tobacco Coalition of Hawaii show us that parents are purchasing vape products for their kids, naïve to the real impact of addiction and health concerns vaping brings. We are learning that many children access vape products online, using their parent's resources and information to order them. This loophole needs to be closed.

Nationally, there was a 78% increase from 2017-2018 in current e-cigarette use among high school students and 48% increase among middle school students. Bringing the total number of middle and high school students currently using to 3.6 million, 1.5 million more than the previous year. Hawaii youth are

part of this trend. There continues to be a steep rise in the use of electronic smoking devices, and the unregulated industry allows for a simple and easy way for children to purchase these relatively inexpensive, undertaxed products.

Overall, there are a variety of issue this legislation will address. It is time to better regulate an industry, to collect the appropriate taxes, raise the cost of licensing and permitting fees, and close the online loophole that allows for easy underage purchasing.

We are grateful to the Committee for hearing SB1405 SD2 HD1 and hope that you will consider passing this important bill.

Sincerely,

Peggy Mierzwa

Peggy Mierzwa
Blue Zones Project—Hawaii

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Hawaii by



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**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 20, 2019**

Re: SB 1405 SD2 HD1 Relating to Electronic Smoking Products

Good afternoon Chairperson Takumi, Chairperson Lee and members of the House Committee on Consumer Protection & Commerce and the Committee on Judiciary. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) as founded in 1901 and is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

We STRONGLY OPPOSE SB 1405 SD2 HD1 Relating to Electronic Smoking Products. This measure establishes the offense of unlawful shipment of e-liquid products; includes e-liquid and electronic smoking devices in regulatory and taxation requirements applicable to tobacco products. Increases tobacco wholesaler or dealer license fees and retail permit fees; allocates portions of tobacco tax revenues to the Hawaii Tobacco Prevention and Control Trust Fund and to support tobacco and cancer prevention research; and repeals statutory provisions made obsolete.

It is not fair to categorize vapor products and e-liquids as a tobacco product. They are not the same. Vape products contains NO tobacco and NO smoke is emitted when vaporized. The New England Journal of Medicine published an article recently found that vape products were nearly twice as effective as conventional nicotine replacement products, like patches and gum, for quitting smoking. The study was conducted in Britain and funded by the National Institute for Health Research and Cancer Research UK.

Many retailers statewide are already operating on a thin margin and face stiff competition. Raising the tobacco tax and permit fee will truly hurt locally owned businesses, especially the small locally owned businesses' and may potentially force some of them to close. This would mean the convenient corner store would be gone and leaving people out of work.

We urge you to hold this measure. Mahalo for this opportunity to testify.

SB-1405-HD-1

Submitted on: 3/18/2019 4:03:28 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cori Takesue	Lanai Community Health Center	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 10:55:31 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
dillon rellez	irie hawaii	Oppose	No

Comments:

E cigarettes are truly a better alternative and if you take them away people are going to suffer from the bad addictions they have from the cigarettes. If you take away something that helps then you're depriving people from their right to be healthy and that isn't right. Thank you for your time.

Sincerely,

Dillon Rellez



HIPHI Board

Michael
Robinson, MBA, MA
Chair
Hawaii Pacific Health

Mark Levin, JD
Secretary
William S. Richardson School
of Law

Kilikina Mahi, MBA
Treasurer
KM Consulting LLC

Joy Barua, MBA
Kaiser Permanente

Forrest Batz, PharmD
Retired, Daniel K. Inouye
College of Pharmacy

Debbie Erskine
Kamehameha Schools

Keawe'aimoku
Kaholokula, PhD
John A. Burns School of
Medicine, Department of
Native Hawaiian Health

Bryan Mih, MD, MPH
John A. Burns School of
Medicine, Department of
Pediatrics

Rachel Novotny,
PhD, RDN, LD
University of Hawaii at Manoa,
College of Tropical Agriculture
and Human Resources

Catherine Taschner, JD
McCorriston Miller Mukai
MacKinnon LLP

JoAnn Tsark, MPH
John A. Burns School of
Medicine, Native Hawaiian
Research Office

En Young, MBA
Sansei, Lanai

Date: March 19, 2019

To: Representative Roy M. Takumi, Chair
Representative Linda Ichiyama, Vice Chair
Members of the Consumer Protection & Commerce Committee

Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair
Member of the Judiciary Committee

Re: Strong Support for SB1405 SD2 HD1, Relating to Electronic
Smoking Products

Hrg: March 20, 2019 at 2:00pm at Conference Room 329

The Coalition for a Tobacco-Free Hawai'i, a program of the Hawai'i Public Health Instituteⁱ is in **Strong Support of SB 1405 SD2 HD1** which imposes a tax on e-liquid, including disposable electronic smoking devices (ESDs), dedicates a portion of the revenue to tobacco prevention and control efforts, requires wholesalers and retailers to obtain a license and a retail tobacco permit, and restricts the shipment of tobacco products to anyone other than a licensee.

E-cigarette use among youth and young adults has become a public health concern.

In 2017, 1 in 4 (25.5%) public high school students and more than 1 in 6 (15.7%) public middle school students in Hawai'i reported that they are regularly vapingⁱⁱ. Hawai'i has the third highest high school e-cigarette rate in the Country. Because ESDs remain unregulated, e-cigarette companies have aggressively marketed their products by glamorizing their use, using celebrities and young adults as endorsers, and making false health claims. E-cigarettes often contain nicotine, which is addictive and harmful particularly to adolescents, whose brains are still developing. A 2016 report by the Surgeon General concluded that e-cigarettes are dangerous and a health threat to youth and young adultsⁱⁱⁱ. According to a recent article published by Dr. Jackler and Dr. Ramamurthi, "JUUL has triggered a widespread rush among aerosol purveyors to market e-liquid in unprecedentedly high nicotine concentrations^{iv}."

Electronic smoking devices (ESDs) are the only tobacco product without a tobacco tax.

In 2016, the FDA deemed e-cigarettes, including its components and parts as tobacco products. In a poll^v conducted by Ward Research Inc. for the Coalition in November 2018, 77% of registered Hawai'i voters were in support of taxing e-cigarettes at the same rate as cigarettes or other tobacco products. Because ESDs are not subject to current State tobacco tax laws, they are seen as lower-priced tobacco alternatives with virtually no restrictions that can be appealing to the youth. A local retailer is selling 15mL of e-liquid, some with strengths up to 50 mg of nicotine per mL, for as little as \$5.00^{vi}. Some companies have starter kits for \$0.99. Raising taxes and increasing the price of tobacco products is a proven strategy to reduce consumption for both adults and youth.

The Coalition supports establishing an ESD tax and appreciates that this measure dedicates a portion of the tax revenue to tobacco prevention and control programs and to the University of Hawaii Cancer Center.

ESD licensing and permits protect both consumers and merchants.

The Coalition recommends that ESD sellers and vendors obtain a tobacco permit and/or license which is currently required for any tobacco retailer or wholesaler. This consistency would assist with the communication and enforcement of current tobacco tax and purchase laws. In addition, the Coalition supports the proposed increased fees for the tobacco permit and license.

This measure corrects the loophole in our minimum age selling and tax laws.

Many online ESD sellers simply ask users to click a button to verify their age – a process that is both ineffective and inadequate. This measure helps to correct this loophole by requiring that ESD products be shipped to a registered and licensed seller allowing the State to enforce current tobacco selling and taxation laws.

To reiterate, 25.5% of our high school youth reported that they are regularly vaping. However, our adult rate is 4.7%^{vii}. We need to take action and regulate electronic smoking devices for our kids. With the FDA Commissioner announcing his resignation, federal regulations are likely to be further delayed.

The current Surgeon General, VADM Jerome Adams issued an advisory last December “emphasizing the importance of protecting our children from a lifetime of nicotine addiction and associated health risks by immediately addressing the epidemic of youth e-cigarette use. The recent surge in e-cigarette use among youth, which has been fueled by new types of e-cigarettes that have recently entered the market, is a cause for great concern. We must take action now to protect the health of our nation’s young people^{viii}.” Hawai'i has made enormous progress on tobacco control and we ask the legislature to take the necessary steps to reverse our youth vaping epidemic in order to save our youth from a lifetime of addiction.

Thank you for the opportunity to testify. We strongly support SB 1405 SD2 HD1 and respectfully ask you to pass this measure as is out of committee.

Mahalo,



Jessica Yamauchi, MA
Executive Director

ⁱ The Coalition for a Tobacco-Free Hawai'i (Coalition) is a program of the Hawai'i Public Health Institute (HIPHI) that is dedicated to reducing tobacco use through education, policy, and advocacy. With more than two decades of history in Hawai'i, the Coalition has led several campaigns on enacting smoke-free environments, including being the first state in the nation to prohibit the sale of tobacco and electronic smoking devices to purchasers under 21 years of age.

The Hawai'i Public Health Institute is a hub for building healthy communities, providing issue-based advocacy, education, and technical assistance through partnerships with government, academia, foundations, business, and community-based organizations.

ⁱⁱ 2017 Youth Risk Behavior Surveillance System (YRBS).

<http://www.hawaiihealthmatters.org/indicators/index/dashboard?id=83016762154173692>

ⁱⁱⁱ U.S. Department of Health and Human Services. *E-cigarette Use Among Youth and Young Adults, a Report from the Surgeon General* (2017). From https://e-cigarettes.surgeongeneral.gov/documents/2016_SGR_Exec_Summ_508.pdf

^{iv} Jackler RK, Ramamurthi D. Tob Control Epub ahead of print: 2.6.19.doi:10.1136/tobaccocontrol-2018-054796. <https://tobaccocontrol.bmj.com/content/early/2019/01/31/tobaccocontrol-2018-054796>

^v This study by Ward Research, Inc. summarizes findings from a phone survey among n=804 Hawaii registered voters (maximum sampling error +/-3.3%), conducted between October 8 and November 2, 2018.

^{vi} <https://www.volcanoecigs.com/strawberry-nicotine-salt-15ml-by-solace-vapor.html>

^{vii} 2017 Behavioral Risk Factor Surveillance System (BRFSS).

https://nccd.cdc.gov/BRFSSPrevalence/rdPage.aspx?rdReport=DPH_BRFSS.ExploreByLocation&rdProcessAction=&SaveFileGenerated=1&irbLocationType=States&islLocation=15&islState=&islCounty=&islClass=CLASS19&islTopic=TOPIC67&islYear=2017&hidLocationType=States&hidLocation=15&hidClass=CLASS19&hidTopic=TOPIC67&hidTopicName=E-Cigarette+Use&hidYear=2017&irbShowFootnotes=Show&rdICL-iclIndicators=CURECIG%2c_EICIGSTS&icIndicators_rdExpandedCollapsedHistory=&icIndicators=CURECIG%2c_EICIGSTS&hidPreviouslySelectedIndicators=&DashboardColumnCount=2&rdShowElementHistory=&rdScrollX=0&rdScrollY=0&rdRnd=60487

^{viii} Surgeon General Advisory, December 2018, <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>



American Cancer Society
Cancer Action Network
2370 Nuʻuanu Avenue
Honolulu, Hawaiʻi 96817
808.432.9149
www.acscan.org

House Committee on Consumer Protection and Commerce
Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy San Buenaventura, Vice Chair

SB 1405, SD2, HD1 – RELATING TO ELECTRONIC SMOKING PRODUCTS

Cory Chun, Government Relations Director – Hawaii Pacific
American Cancer Society Cancer Action Network

Thank you for the opportunity to provide testimony in support of SB 1405, SD2, HD1, which prohibits the remote sale of e-liquids, increases the license and permit fees for wholesalers, dealers and retailers engaged in the sale of tobacco products and allocates a portion of funds collected from excise taxes on tobacco products to tobacco control programs. Measure is effective March 15, 2030.

According to data from the Centers for Disease Control and Prevention and the Food and Drug Administration's National Youth Tobacco Survey, the percentage of high school-age children reporting past 30-day use of e-cigarettes rose by more than 75 percent between 2017 and 2018. Use among middle school-age children also increased nearly 50 percent.

The following statistics highlight the problem we are facing.

- In the United States, youth are more likely than adults to use e-cigarettes.
- In 2018, more than 3.6 million U.S. middle and high school students used e-cigarettes in the past 30 days, including 4.9% of middle school students and 20.8% of high school students.
- In 2017, 2.8% of U.S. adults were current e-cigarette users.
- In 2015, among adult e-cigarette users overall, 58.8% also were current regular cigarette smokers, 29.8% were former regular cigarette smokers, and 11.4% had never been regular cigarette smokers.
- Among current e-cigarette users aged 45 years and older in 2015, most were either current or former regular cigarette smokers, and 1.3% had never been cigarette smokers. In contrast, among current e-cigarette users aged 18–24 years, 40.0% had never been regular cigarette smokers.

Tobacco retail licensing is a policy tool that enables the state to regulate businesses that sell tobacco products to ensure they comply with tobacco laws, to reduce tobacco-related health disparities, and to combat the public health problems that tobacco use causes. Strong tobacco retail license laws are an effective way to limit youth access to tobacco by reducing illegal tobacco sales to youth and young adults. ACS CAN supports updating the state's licensing law and fees and we recommend revenues generated from the license fees be used for enforcement of tobacco control laws.

Thank you for the opportunity to provide testimony on this important matter.

SB-1405-HD-1

Submitted on: 3/18/2019 4:07:25 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keanu Esser	Irie Hawaii	Oppose	No

Comments:

I oppose this bill.

Wednesday, March 20, 2019 at 2:00 PM
Conference Room 329

House Committee on Consumer Protection & Commerce

To: Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair

House Committee on Judiciary

To: Representative Chris Lee, Chair
Representative Joy San Buenaventura, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

**Re: Testimony in Support of SB 1405, SD2, HD1
Relating to Electronic Smoking Products**

My name is Michael Robinson, Vice President, Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

I write in support of HB 1405, SD2, HD1 which establishes the offense of unlawful shipment of e-liquid products; includes e-liquid within the definition of "tobacco products" in the cigarette tax and tobacco tax law; increases the license fee for persons engaged as a wholesaler or dealer of cigarettes and tobacco products; and allocates a portion of funds collected in excise taxes on tobacco products to health education and prevention programs about the risks and dangers of the use of electronic smoking devices for the youth.

E-cigarette use or vaping among youth and young adults has become a national public health concern. e-cigarettes are now the most popularly used tobacco product among youth and young adults, surpassing cigarettes. While smoking rates in Hawaii have decreased through the years, ESD use has rapidly increased, threatening significant public health gains through our Tobacco 21 law and tobacco youth access laws. This is particularly concerning because e-cigarettes provide a new way to deliver the addictive drug nicotine. No matter how it is delivered, nicotine exposure can lead to addiction and harm the developing brain. Studies are also finding that ESDs can lead to smoking cigarettes for new users, including kids.

Without regulation, e-cigarette manufacturers will continue to aggressively market their products by using young adults and celebrities as endorsers, glamorizing its use, promoting deep discounts, and offering popular local e-liquid flavors such as Kona coffee, Maui mango, and pineapple.

Now that the FDA has deemed ESDs as tobacco products, this measure timely and appropriately seeks to regulate and tax e-liquids, which are not currently taxed, the same way as other tobacco products. In addition, a use of a portion of these revenues would help in curbing the prevalence of e-cigarette use especially among our youths.

Thank you for the opportunity to testify.

SB-1405-HD-1

Submitted on: 3/19/2019 11:27:38 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andy Takaaze	Irie Hawaii	Oppose	No

Comments:

I oppose any tax increase on ecigs. I oppose making it any way more difficult for law abiding citizens to obtain ecigs. Ecigs are the most effective way for adults to quit both cigarettes and their dependency on nicotine. Ecigs are the healthier alternative to conventional cigarettes being that they contain none of the harmful chemicals and do not combust and fill users lungs with carbon. The only thing they share is nicotine. Ecigs are also a cost effective alternative for cigarette smokers to get their nicotine fix because they don't have the heavy tobacco tax. Law makers should be looking out for the health and well being of the people. Cigarette smokers who have switched to Ecigs no longer affect their family or friends with second hand smoke. Cigarette smokers like myself have been able to quit smoking cigarettes forever with the use of ecigs. Ecig users all have control of the nicotine they consume and are able to effectively ween themselves of nicotine all together. Ecigs give hope to those who thought they would be addicted to nicotine for life. Stop trying to make it difficult on the pockets and lives of those addicted to nicotine.

Mahalo for your time'



Wellness & Lifestyle Medicine

Wellness & Lifestyle Medicine Center
642 'Ulukahiki Street, Suite 105
Kailua, Hawai'i 96734-4498
Tel: 808.263.5050
Fax: 808.263.5054
AdventistHealthCastle.org

Date: March 19, 2019

To: The Honorable Representative Roy Takumi, Chair
The Honorable Representative Linda Ichiyama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

The Honorable Representative Chris Lee, Chair
The Honorable Representative Joy A. San Buenaventura, Vice Chair
Members of the House Committee on Judiciary

Re: **Strong Support for SB 1405 SD2 HD1, relating to Electronic Smoking Products**
Hrg: March 20, 2019 at 2:00pm at Conference Room 329

Adventist Health Castle, is in **Strong Support of SB 1405 SD2 HD1** which imposes a tax on e-liquid, including disposable electronic smoking devices (ESDs) containing e-liquid, dedicates a portion of the revenue to tobacco prevention and control efforts, requires wholesalers and retailers to obtain a license and retail tobacco permit, and restricts the shipment of tobacco products to anyone other than a licensee.

At Adventist Health Castle, our mission of "Living God's love by inspiring health, wholeness, and hope," is why we are here providing patient-centered, whole person health services in a nurturing and healing environment that extend well beyond our walls into our communities. Therefore, it is a great public health concern that e-cigarette use has dramatically increased among Hawaii youth and young adults.

The *Live Well Tobacco Free Program* at Adventist Health Castle is also funded by the Hawaii Community Foundation Tobacco Prevention & Control Trust Fund. Because of this free and comprehensive resource on the Windward side, we are helping individuals (including our young adult population) who are seeking assistance to end their addiction to tobacco, including cigarettes and e-cigarettes. As the Program Coordinator and one of the Tobacco Treatment Specialists, I have the privilege of being alongside clients who decide to begin their vape-free life.

One of these clients was a Native Hawaiian, working, single mother in her 30's with young children. She was referred by her doctor because she had decided she wanted to completely stop smoking and vaping. Her kids were asking her to quit, and she was tired of smoking and constantly needing to vape—beginning first thing in the morning, while alone in her car, after meals and all throughout the evening. She knew she couldn't quit cold turkey since she had already tried. After enrolling in our program, we worked together to create a personalized Quit Plan, discussed her options for tobacco treatment medications and worked with her doctor to call in the prescriptions. She also vowed to

immediately stop vaping in her house and car as she learned about the dangers of exposing her children to residual environmental nicotine and other harmful chemicals. Later, she was so happy to report that she quit smoking and vaping completely. With the money she saved, she booked a trip to Disneyland with her kids. When someone quits vaping, it changes their whole life and the lives of their loved ones, and in turn, the entire community. This measure will absolutely benefit Hawaii's public health as more young adults are supported to quit e-cigarettes or to not even start.

Thank you for the opportunity to testify. We strongly support SB 1405 SD2 HD1 and respectfully ask you to pass this measure.

Mahalo nui loa,

A handwritten signature in black ink, appearing to read 'Allie Hall', with a long horizontal flourish extending to the right.

Allie Hall, RN, MPH, NCTTP
Program Coordinator, Tobacco Control
Tobacco Treatment Specialist



March 19, 2019

To: The Honorable Representative Roy M. Takumi, Chair
The Honorable Representative Linda Ichiyama, Vice Chair
Members, House Committee on Consumer Protection & Commerce

The Honorable Representative Chris Lee, Chair
The Honorable Representative Joy A. San Buenaventura, Vice Chair
Members, House Committee on Judiciary

From: Cory Smith, VOLCANO Fine Electronic Cigarettes®
CEO and Owner

RE: SB 1404 SD2 HD1 – oppose.

Thank you for the opportunity to submit testimony.

VOLCANO Fine Electronic Cigarettes® is the largest independent retailer & wholesaler of vapor products and vaping accessories in the State of Hawaii. We currently own and operate 16 locations statewide and employ over 110 full-time workers to support sales of our products not only here in Hawaii, but to all 50 states as well as over 30 International countries. We stand in opposition to SB 1404 SD2 HD1 for the following:

- Vapor products and e-liquids contain NO tobacco, often times contain NO nicotine, and ultimately emit NO smoke when vaporized; yet **SB 1404 SD2 HD1 deceptively refers to vapor products as “Electronic Smoking Devices”** to mislead the public and creates a false perception of the nature of these products. This misclassification establishes the idea that vapor products are the same as tobacco products and thus, should be viewed, controlled, and perceived the same way as traditional tobacco products. This is a complete disregard of the fact that vapor products are fundamentally different from tobacco products in every way.
- **SB 1404 SD2 HD1 states in its justification that the bill and its regulations are needed to curb youth usage.** It states “The Surgeon General's report noted that e-cigarette use has increased considerably in recent years, growing an astounding nine hundred percent among high school students from 2011 to 2015”. **However, it fails to mention the latest available CDC report that shows youth use of all tobacco products, including e-cigarettes are at the lowest levels ever. Furthermore, a study done the following year at the University of Michigan found that the majority of youth who have reported using e-cigarettes are not using e-liquids that contain nicotine - further suggesting that youth who do use e-cigarettes are doing so to replace the use of traditional tobacco.**
 - <https://www.cdc.gov/media/releases/2017/p0615-youth-tobacco.html>



VOLCANO®

- <https://www.psc.isr.umich.edu/events/archive/feature-detail/1833>
- The most Recent CDC report has shown e-cigarettes have supplanted all other traditional nicotine replacement therapies and are now the most commonly used product by consumers to quit using traditional tobacco cigarettes
 - http://www.journalnow.com/business/business_news/local/cdc-report-shows-more-smokers-try-to-quit-with-e/article_a33383f3-5300-5178-9f14-28b52884c45c.html
- A recent study published by the New England Journal of Medicine concluded that E-Cigarettes are twice as effective for smoking cessation than traditional nicotine replacement therapy products which are not taxed or controlled the same way this bill proposes to tax and control E-Cigarettes. The state should be creating easier access for these products, not tighter regulations that steers vapers back towards tobacco cigarettes
 - <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>
- A recent study by the National Academy of Sciences, Engineering, and Medicine stated: "there is conclusive evidence that completely substituting e-cigarettes for combustible tobacco cigarettes reduces users' exposure to numerous toxicants and carcinogens present in combustible tobacco cigarettes." The findings add to the already weighty body of evidence showing vaping to be far less hazardous than smoking.
 - <http://www.washingtonexaminer.com/landmark-e-cigarette-report-explodes-myth-that-vaping-is-as-toxic-as-smoking/article/2646804>
 - http://nationalacademies.org/hmd/reports/2018/public-health-consequences-of-e-cigarettes.aspx?utm_source=Hootsuite&utm_medium=Dashboard&utm_campaign=SentviaHootsuite
 -
- SB 1404 SD2 HD1 States in its justification that the use of licensing and permit fees will help "protect consumers, such as requiring retailers of e-liquids to obtain a retail tobacco permit". **We fail to see how requiring retailers to obtain a permit will translate to 'protecting the public'.** Rather, it will simply burden the 50+ small businesses operating in the vapor products industry with unnecessary fees and bureaucratic hurdles.
- SB 1404 SD2 HD1 would amount to a 9900% increase in licensing fees. This is a highly unreasonable increase that will result in a significant financial burden for all retailers included in the bills definition.
- Vapor Products are not the same as tobacco products, and thus, should not be regulated in the same fashion. Vapor products have not been demonstrated to have the same detrimental effects of combustible tobacco products and have otherwise been shown in recent studies to be as much as 95% less toxic than traditional Cigarettes. **Creating extraneous regulations that aim to limit access only serves to protect deadly tobacco markets.**
 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457102/E-cigarettes_an_evidence_update_A_report_commissioned_by_Public_Health_England_FINAL.pdf



- **SB 1404 SD2 HD1's justification states that without taxing vapor products, "smokers may be tempted to purchase less expensive products such as e-liquid". This is false. Virtually all e-cigarette starter kits and bottles of e-liquid are already higher priced in comparison to tobacco cigarettes.** An average reusable electronic cigarette starter kit ranges in price from \$30 to upwards of \$300 depending on the device. Furthermore, a 15ml bottle of e-liquid (the smallest bottle size currently offered) is currently retailed at \$12.99 at all of our locations, which is nearly 33% more costly than a standard pack of cigarettes, yet it provides nearly the same amount of puffs.
- **Most troubling is the fact that by subjecting vapor products to this proposed tax, the additional costs to consumers will likely result in the state seeing less tax revenue, and even worse, former smokers returning to tobacco use. The tax will result in current vapor users purchasing from online vendors who would not be subject to state taxes. Local manufacturers, wholesalers and retailers would be put at a massive competitive disadvantage and most retail customers would send their money out-of-state effectively lowering the tax revenue already being generated by sales of vapor products here in the state.** We would be unable to compete in other out-of-state and international markets with competitors who are not subjected to the same tax, which would put our local operations in severe jeopardy meaning an immediate loss of jobs and existing revenues. This bill would also effectively reduce access to a modified risk product that has been a public health win and would simply prop up and protect the proven deadly tobacco market.

It is our belief that this continuing unjustified classification and requirements are not in the best interests of the State of Hawaii. Thank you for your time and consideration. If you have any questions, please feel free to contact me directly.

Sincerely,
Cory N. Smith
CEO & Owner
VOLCANO Fine Electronic Cigarettes®
1003 Bishop Street #1260
Honolulu, HI 96813
cory@volcanoecigs.com

SB-1405-HD-1

Submitted on: 3/15/2019 4:23:40 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jake J. Watkins	Individual	Oppose	No

Comments:

To whom it may concern,

I am opposing the bill presented. As a long time vaper of 7+ years, vaping has been a huge help in my life and my health. I've been cigarette free for the last 4 years due to vaping and my doctor has commended me for the improvement of my overall health condition.

I believe this bill is unfair and unconstitutional to what us Americans believe in, which freedom of choice. It's unfair that something like vaping which is so innovative in helping millions of Americans quit dangerous traditional tobacco cigarette is being ignored and demonized as being far more dangerous, even though there's hundreds of studies saying otherwise or opposite.

This bill will cause thousand of Hawaii residents to go right back to smoking and thousand who work at small mom and pop vape shops to be unemployed, and their shops shut down and go out of business. There are much bigger issues here in Hawaii:

- Homelessness

- Alcohol, Flavored Alcohol, deaths caused by drunk driving.

- Over budgeted rail funds which is going nowhere, while we're still being Taxed here and there for years.

- High cost of living and limited homes and apartment rentals for locals born and raised here, causing thousands each year to leave their homes to live in the mainland.

Hawaii is slowly becoming an anti-local and anti-small business State. These bills only cater to the wealthy, deep pocket businessmen who can afford high tax and interest rates. With these bills you're only pushing local businesses away to the mainland where they can survive.

I implore you to please look over this bill you're trying to pass and see if it's in the best interest for the people of Hawaii.

I vape and I use flavored e-liquids and it saved my life along with millions around the world. Please don't take that away from us.

Sincerely, Vince Tran of Honolulu, Hawaii

SB-1405-HD-1

Submitted on: 3/15/2019 4:37:52 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Teddy Kim	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/15/2019 4:39:53 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Heaukulani	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/15/2019 4:46:13 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hoku	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/15/2019 4:57:58 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sabrina Spencer	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/15/2019 5:24:42 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ned Garcia	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/15/2019 5:36:13 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Chan	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/15/2019 8:08:06 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Katelyn Kapua	Individual	Oppose	No

Comments:

I oppose this bill because, electronic smoking products are a healthier alternative than conventional smoking and reduces exposure to secondhand smoke. I myself use these products and it has helped me to quit my habit of cigarette smoking.

SB-1405-HD-1

Submitted on: 3/15/2019 5:37:16 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sheldon Miyakado	Individual	Oppose	No

Comments:

Hi

the sale of e-liquids and associated products should not be taxed like cigarettes. Hence the term tobacco and cigarettes, products used to vape are no considered a cigarette or tobacco and shouldn't be taxed as such. there is no study showing that Vaping cause lung cancer and should not be associated with cigarettes. Cigarettes leave tar in the lungs which is the key factor in causing cancer.

Please reconsider and stop this bill as people in hawaii are being taxed to the extreme point living pay check.

Thank You

Sheldon Miyakado

Maybe alcohol should be taxed more to prevent innocent deaths.

SB-1405-HD-1

Submitted on: 3/15/2019 11:51:24 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Alvarez	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/16/2019 9:39:45 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Watanabe	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/16/2019 10:54:58 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicholas Winters	Individual	Oppose	No

Comments:

We don't need this attack on businesses.

SB-1405-HD-1

Submitted on: 3/16/2019 1:50:06 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/16/2019 1:36:12 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cindy Nettles	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/17/2019 12:56:07 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Smart	Individual	Oppose	No

Comments:

This is more government overreach. Vote no. Who is going to enforce it? Will we have to add state employees at great taxpayer expense? It is interesting that many of the bills this session make perfectly legal products illegal (vaping products, plastic straws, etc), and yet is trying to legalize products that are prohibited by federal law (marijuana). Do not pass SB1405 SD2 HD1.

SB-1405-HD-1

Submitted on: 3/16/2019 5:38:34 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dallas Nelson	Individual	Oppose	No

Comments:

SB1405 is so nasty to people that vape.

SB-1405-HD-1

Submitted on: 3/17/2019 8:16:54 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathy Kim	Individual	Oppose	No

Comments:

Strong Opposition.

SB-1405-HD-1

Submitted on: 3/17/2019 3:32:17 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tammy Young	Individual	Oppose	No

Comments:

No flavor ban or more regulation!!

SB-1405-HD-1

Submitted on: 3/17/2019 11:06:18 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Owens	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/17/2019 6:45:05 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Anton	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 8:13:15 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cyrus Howe	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 8:17:43 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Delfin	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 8:28:12 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kirstin Kahaloa	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 9:11:43 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Stevenson	Individual	Oppose	No

Comments:

Aloha,

Thank you for giving us (the public) to voice our opinions. To the committee and chair persons. I OPPOSE SB1405. I opppse that it would be unlawful to ship eliquid to any person that is not a licensee of a tobacco permit. This will shut down a gigantic revenue for local Vape shop owners. That revenue is a source for those shop owners to keep their employees. That revenue will keep your taxes and permit/licenses paid. The 100,000's that you are allocating to UH and other health and prevention programs will be funded through these shops along with their loyal customers. I would like to see more stringent age verification processes through websites that sell vapor products. I.e. Hilyfevaporz on the west side of Oahu. Has a stringent process. You have to upload a picture ID and it needs to be approved before the sale is completed. I would like to see that type of varification nation wide. That would make it harder for youth to acquire vapor products. Mahalo for reading amd making my voice heard to whomever is in attendance.

SB-1405-HD-1

Submitted on: 3/18/2019 9:12:18 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Molliane Gotter	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 9:42:31 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kaimana Brummel	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 9:29:02 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
DANIEL DRAPESA	Individual	Oppose	No

Comments:

Aloha

My name is Daniel, as a vaper and a employee at a locally owned and operated vape shop I strongly oppose this bill. If this was to become law it would seriously limit options for vapers here in Hawaii. Most of whom are ex smokers or in transition from smoking to vaping. Some local vape shops may be able to service their local area but with this bill becoming law it would limit their business potential and put a strain on them. Many ex smokers say that one specific flavor of Eliquid turned the tide for them. Making it possible to quit and stay off of smoking. You would be taking that opportunity away from many of us. Also it is inevitable that prices would go up making acquiring these product more of a hassle and some vapers may even return to smoking just because its more convenient. Please consider your constituents and we the people that work in this vape industry and kill this bill

Mahalo

SB-1405-HD-1

Submitted on: 3/18/2019 10:22:56 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laksmi M Abraham	Individual	Support	No

Comments:

RE: SUPPORT SB1405 Relating to Electronic Smoking Products

I support SB1405, which will help to regulate sales of electronic smoking devices. In Hawaii alone, smoking causes 1400 adult deaths per year and costs \$256 million. Limiting the use of tobacco would result in an extremely effective way to prevent a variety of chronic diseases and many other adverse health consequences.

An industry which is not regulated cannot be held accountable. This measure would mandate that e-cigarette retailers need to possess the appropriate retail tobacco permit to sell e-cigarettes and liquids, which would result in better oversight of this quickly growing industry. It is impossible to know if a retailer is selling to under 21 if there is no way to track the retailers.

1. industry has been left to grow without paying the taxes it should be paying on its products. It is important to bring electronic smoking devices, and their parts, under the same tobacco taxes as other nicotine products. This alignment creates a more clear message to consumers. Furthermore, this measure will increase the cost for a tobacco license from \$2.50 annually to \$250 annually, and the cost of a retail permit will go from \$20 annually to \$50 annually. Even small businesses can pay these minimal raises in fees to be allowed to continue to profit from the sale of tobacco products.

Although Hawaii has one of the strictest laws in the nation prohibiting the sale of tobacco to individuals under the age of 21, our children are easily able to purchase cigarettes and other tobacco products via the Internet. This legislation will address this loophole by only allowing the online purchase and shipment of tobacco products to licensed retailers, where consumers can purchase.

There are still many people in Hawaii that don't truly understand the harmful effects of vaping. Likewise, student surveys with the Tobacco Coalition of Hawaii show us that parents are purchasing vape products for their kids, naïve to the real impact of addiction and health concerns vaping brings. In addition, we are learning that many kids access vape products online, using their parent's resources and information to order them. This loophole needs to be addressed and corrected.

Nationally, there was a 78% increase from 2017-2018 in current e-cigarette use among high school students and 48% increase among middle school students. Bringing the total number of middle and high school students currently using to 3.6 million, 1.5 million more than the previous year. Hawaii youth are part of this trend. There continues to be a steep rise in the use of electronic smoking devices, and the unregulated industry allows for a simple and easy way for children to purchase these relatively inexpensive, undertaxed products.

SB-1405-HD-1

Submitted on: 3/18/2019 10:32:30 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Royce Fukuroku	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 10:52:43 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Teikiheekua Taupu	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 11:52:02 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
jason graham	Individual	Oppose	No

Comments:

I oppose this bill due to the fact that banning shipment of vaping juice and accessories would limit selections for private purchases by the average buyer. Also shipping goods is already taxed and shipments is always regulated. Regulating a market that's already regulated to me is not right and doing so would potentially open a bigger market to those trying to quit smoking cigarettes to go back to such negative and proven unhealthy behavior.

SB-1405-HD-1

Submitted on: 3/18/2019 11:52:49 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maile Ketelsen	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 12:46:07 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jan Shishido	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 2:20:41 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Hayashi	Individual	Support	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 3:54:33 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ricky Alaniz	Individual	Oppose	No

Comments:

I oppose this bill on banning E-Cigs. Not only is it helping people quit cigarettes but it is also helping our environment by not having Cigarette butt rubbish or pack rubbish. Be smart, take care of our world and people.

Date: March 18, 2019

To: The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
Members of the House Committee on Consumer Protection & Commerce

The Honorable Chris Lee, Chair
The Honorable Joy A. San Buenaventura
Members of the House Committee on Judiciary

Re: **Strong Support of SB1405 SD2 HD1**, Relating to Electronic Smoking Products

Hrg: March 20, 2019 at 2:00 PM in Capitol Room 329

Aloha House Committees on Consumer Protection & Commerce, and, Judiciary,

I am writing in **strong support of SB1405 SD2 HD1**, which establishes the offense of unlawful shipment of e-liquid products; includes e-liquid and electronic smoking devices in regulatory and taxation requirements applicable to tobacco products; increases tobacco wholesaler or dealer license fees and retail permit fees; allocates portions of tobacco tax revenues to the Hawai'i Tobacco Prevention and Control Trust Fund and to support tobacco and cancer prevention research; and, repeals statutory provisions made obsolete

State lawmakers have been trying to regulate ESDs for the last five years. Hawai'i is now in the midst of a youth vaping epidemic, with 25.5 percent of high school and 15.7 percent of middle school students vaping regularly. To put this into perspective, 4.7 percent of adults in Hawai'i vape.

We must regulate these products now to reverse this threat to the health of our youth.

Nearly all e-liquids, and all of the most popular ESDs among our youth, contain nicotine derived from tobacco plants. ESDs are the only tobacco products without a tobacco tax and sellers are not required to obtain a tobacco permit and license to sell. Increasing tobacco prices through taxes is a proven strategy to reduce youth use.

Establishing ESD licensing and permitting requirements identifies the retail establishments selling these products, allowing state agencies to readily and effectively communicate regulatory changes, product recalls and other important information to retailers.

Restricting shipment of e-liquid products to only retailers with a tobacco license will deter online sales to youth seeking to circumvent Hawai'i's age 21 tobacco purchase law.

I greatly appreciate that a portion of revenues generated from the ESD and e-liquid tax will be dedicated to the Hawai'i Tobacco Prevention and Control Trust Fund to support prevention and education programs, and help support individuals who want to quit.

I **strongly support SB1405 SD2 HD1** and respectfully ask you to pass this bill out of committee.

Many thanks for your consideration,

Forrest Batz, PharmD
Keaau, HI

SB-1405-HD-1

Submitted on: 3/18/2019 5:02:32 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jamil Folio	Individual	Support	No

Comments:

Aloha,

I am writiing to ask that you please regulate vaping products in the same manner as other tobacco products. The argument that there is no tobacco in these products is irrelevant when they contain nicotine, the addictive ingredient derived from tobacco. Not only do they contain nicotine, but in general, and more and more as time goes on, they contain HIGH concentrations of nicotine. These are extremeley addictive products and they are addicting our children. The industry is making an obscene amount of money off of these products with practically zero regulation. It's time our state steps up and regulates them like other tobacco products, which the FDA has deemed electronic smoking products to be.

Mahalo nui loa,

Jamil Folio

Kula, Maui, HI

SB-1405-HD-1

Submitted on: 3/18/2019 5:44:33 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Chen	Individual	Support	No

Comments:

As a mother of two young children, resident of the State of Hawaii, and attorney, I am extremely concerned about the prevalence of vaping. Unregulated and untaxed, or inappropriately taxed tobacco products are dangerous and serve to entice youths into addiction. Studies have demonstrated that vaping has serious health effects, possibly worse than those associated with smoking cigarettes since the nicotine levels can be higher. It is outrageous that these products are available for purchase throughout the State—the need for regulation and taxation is obvious.

SB-1405-HD-1

Submitted on: 3/18/2019 6:42:55 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Abe	Individual	Oppose	No

Comments:

Unfair tax!

SB-1405-HD-1

Submitted on: 3/18/2019 6:48:41 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lani Hernandez	Individual	Oppose	No

Comments:

I'm taxed too much already.

SB-1405-HD-1

Submitted on: 3/18/2019 7:31:06 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica Chang	Individual	Oppose	No

Comments:

This bill has no merit. Times are hard enough already. NO VAPE TAX!

SB-1405-HD-1

Submitted on: 3/18/2019 8:54:26 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Clayton Silva	Individual	Oppose	No

Comments:

Over regulation and stealing my money. No way.

SB-1405-HD-1

Submitted on: 3/19/2019 8:03:37 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jonah K Manuel	Individual	Oppose	No

Comments:

Here in hawaii we have the highest cost of living.The tax is high enough already thank you.

SB-1405-HD-1

Submitted on: 3/19/2019 8:10:21 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Punahele Victorino	Individual	Oppose	No

Comments:

I rely on having items shipped to me for use. I'm reading taxes on an already expensive product is unfair, and I disagree strongly with this bill.

SB-1405-HD-1

Submitted on: 3/19/2019 10:55:41 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ryan Oswald	Individual	Oppose	No

Comments:

What is this bunk ass shit? The punks that want to steal my money need to go out and get a real job!!

SB-1405-HD-1

Submitted on: 3/19/2019 12:14:26 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Chung	Individual	Oppose	Yes

Comments:

I humbly ask you to consider creating a WORKING GROUP including LOCAL small businesses that are impacted by this and other legislation regarding e-cigarette usage to come up with appropriate policies to ensure that our keiki are not going to use e-cigarettes. Speaking with many local small mom & pop vape shops, it is clear that NO ONE wants our under-age youth to vape and they are eager to work with organizations like the DOE to address youth vaping. Banning electronic devices and e-liquids will NOT solve the problem. Kids will still be able to access these through the internet because most of the small businesses do not sell on the internet. Banning e-cigarettes/e-liquid will only hurt our local small businesses.

This bill, while well-intentioned is NOT the solution and has very negative unintended consequences.

1. NOT ALL E-LIQUIDS CONTAIN NICOTINE

I started at the highest level of nicotine (over 24 mg) and am now at ZERO nicotine. If you ask many of the local vape shops, their biggest sellers are 0 and 3 mg.

2. E-LIQUIDS ARE NOT TOBACCO

Those against e-liquids consistently mix-up the terms "tobacco", "nicotine" and "e-liquids". E-liquids are flavored fluid that produce vapor.

3. BANNING E-LIQUIDS WILL DECIMATE HAWAII'S LOCAL MOM & POP STORES

Anecdotally, there are about 200 local vape shops in Hawaii – each with about 10 employees. Banning e-liquids will close these local businesses, cause about 2000 workers to lose their jobs, and significantly reduce tax revenues to the state.

4. LOCAL VAPE STORES DO NOT WANT KIDS VAPING

Local vape owners have already followed FDA regulations and have re-packaged their products. They are all interested in working with organizations like the DOE to educate our keiki about vaping.

5. BANNING E-LIQUIDS WILL CAUSE ADULTS TO GO BACK TO CIGARETTES

According to a study by the International Journal of Environmental Research & Public Research, a ban will cause adults who successfully stopped smoking cigarettes by using flavored e-liquids – to go back to smoking cigarettes. This is a terrible unintended public health consequence of this bill.

SB-1405-HD-1

Submitted on: 3/19/2019 12:22:23 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
DOC	Individual	Oppose	No

Comments:

i smoked for 20 years and quit using sour worms vape juice

SB-1405-HD-1

Submitted on: 3/19/2019 12:25:40 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
KOA	Individual	Oppose	No

Comments:

i smoked for 8 years and quit using sour worms vape juice

SB-1405-HD-1

Submitted on: 3/19/2019 12:28:32 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
LINA	Individual	Oppose	No

Comments:

i smoked for 18 years and quit using sour worms vape juice

SB-1405-HD-1

Submitted on: 3/19/2019 1:13:05 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Garett Uyesugi	Individual	Oppose	No

Comments:

dear our elected officials

I oppose excessive taxation.

SB-1405-HD-1

Submitted on: 3/19/2019 1:25:08 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Irene Papaconstadopoulos	Individual	Support	No

Comments:

I am a Board Certified Pediatrician practising for more than 10 years and now recently moved to work as a Pediatrician on Maui.

More than 20,000 kids now under 18 and alive in Hawaii will ultimately die prematurely from smoking. Smoking kills more people than alcohol, AIDS, car crashes, illegal drugs, murders, and suicides combined — and thousands more die from other tobacco-related causes — such as fires caused by smoking (more than 1,000 deaths/year nationwide) and smokeless tobacco use.

Published research studies have found that kids are twice as sensitive to tobacco advertising as adults and are more likely to be influenced to smoke by cigarette marketing than by peer pressure. One-third of underage experimentation with smoking is attributable to tobacco company advertising.

The flavoring and lower costs of non-cigarette smoked tobacco products and of smokeless tobacco products make them especially appealing to youth. Flavored tobacco products are widely considered to be starter products. Studies have shown that youth erroneously believe flavored tobacco products are less harmful than their non-flavored counterparts. Candy and fruits flavors mask the bad taste of tobacco, making it easier for youth to start using. • Flavored tobacco products are helping to create a new generation of lifelong nicotine addicts. The design and contents of tobacco products make them more attractive and addictive than ever before, according to the 2012 Surgeon General's report. Since 1988, nicotine has been established to be as addictive as heroin and cocaine. Adolescents' bodies are more sensitive to nicotine, and adolescents are more easily addicted than adults. Compared to cigarettes, smokeless tobacco products like chew and dip can contain more nicotine.

SB-1405-HD-1

Submitted on: 3/18/2019 12:01:26 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
naomi muronaka	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/18/2019 4:05:09 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ASHLEY MATTOS	Individual	Oppose	No

Comments:

I strongly OPPOSE this bill! it will affect so many busniesses and people.

SB-1405-HD-1

Submitted on: 3/18/2019 4:07:20 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
chase yoshida	Individual	Oppose	No

Comments:

SB-1405-HD-1

Submitted on: 3/19/2019 7:01:01 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
arieh levine	Individual	Support	No

Comments:

Tobacco products should be taxed. Vape products are tobacco products. They are extremely addictive and far more dangerous than opiates. Vape products should be taxed at high rates. They result in significant costs to our social and health care system and the tobacco companies are receiving a free ride at our expense.

These sales should be taxed at a very high rate to account for the cost society is paying as a result of the sale.

SB-1405-HD-1

Submitted on: 3/19/2019 9:42:17 AM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
HANALEI BENN	Individual	Oppose	No

Comments:

I oppose this bill, i truly enjoy having being able to have a vaporizer/electric device it has helped me get off of cigarettes. Not saying its a good habit and i dont agree eith underage using them as well. But that should give the right to take away that right from adults that in a way do need it... Please tell me no one doesnt enjoy a small smoke break from time to time, for me I do but instead of smelling like a ashtray I smell like watermelon and strawberrys. I and im assuming alot of other people enjoy having the choice to vape or not if needed.. hope you guyd dont decided to take that Right away from us.

SB-1405-HD-1

Submitted on: 3/19/2019 12:12:30 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
thomas wills	Individual	Support	Yes

Comments:

Testimony:

Date: March 19, 2019

To: Rep. Roy M. Takumi, Chair

Rep. Linda Ichiyama, Vice Chair

Members of the House Committee on Consumer Protection and Finance

Rep. Chris Lee, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Members of the House Committee on Judiciary

Re: Strong Support of SB1405-SD2-HD1, Relating to Electronic Smoking Products

Hrg: March 20, 2019 at 2:00 PM at Capitol Conference Room 329

I strongly support SB1405-SD2-HD1, which would regulate e-liquids and electronic smoking devices (ESDs) as tobacco products through taxation, shipment, and licensing and permitting.

I support this bill because of findings from our research with Hawaii adolescents and adults conducted over the past 5 years. Recent studies have shown that ESD use is quite prevalent among Hawaii middle and high school students, in recent years over 40% of high school students having used e-cigarettes. Even at younger ages, the prevalence among middle school students is over 20% of the school population.

In addition to showing that e-cigarette use is prevalent among Hawaii school students, our studies have shown that ESD use is linked to several adverse outcomes. Notably, using e-cigarettes is related to initiation of cigarette smoking among previous nonsmokers, hence is contributing to undesirable outcomes. Our findings from Hawaii have been reported in national and international scientific journals such as JAMA Pediatrics and have been confirmed in several different US sites as well as in Britain, Germany, Canada, and Mexico.

In addition, our research has shown that e-cigarette use is related to a higher likelihood of respiratory disease (asthma and COPD) among Hawaii adolescents and adults. This has recently been reported in the two scientific journals, the journal Preventive Medicine and the journal Drug and Alcohol Dependence. Thus there is now evidence that e-cigarette use may be linked to adverse health consequences as well as adverse behavioral consequences such as smoking initiation. Moreover, there is now considerable evidence to refute the belief that e-cigarettes help adults quit smoking. Rather, empirical studies of large populations have shown that people who use e-cigarettes are less likely to quit.

We have observed that e-cigarettes are aggressively marketed to Hawaii youth in television, print media, radio, and point-of-sale advertising venues. Without regulation, e-cigarette manufacturers will continue to aggressively market their products by using young adults and celebrities as endorsers, glamorizing its use, promoting deep discounts, and offering popular local e-liquid flavors such as Kona coffee, Maui mango, and pineapple.

Because of the adverse consequences that are known to be related to e-cigarette use, I urge the legislature to regulate and tax e-cigarettes the same way as other tobacco products. ESDs are the only tobacco product without a tobacco tax and increasing the price is a proven strategy that discourages access to these products. In addition, a portion of these revenues should be dedicated to tobacco prevention and quit programs. This bill will also require a permitting and licensing which will allow the state to know who is selling e-cigarettes in Hawaii and work with these merchants to educate and enforce current tobacco laws.

I strongly support SB1405-SD2-HD1 and ask you to pass this out of committee.

Yours sincerely,

Thomas A. Wills, Ph.D.

Director, Cancer Prevention in the Pacific Program

University of Hawaii Cancer Center

SB-1405-HD-1

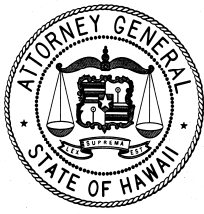
Submitted on: 3/19/2019 12:17:56 PM

Testimony for CPC on 3/20/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph dowell	Individual	Oppose	No

Comments:

I SMOKED FOR 8 YEARS AND QUIT USING LAVA FLOW VAPE JUICE



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 1405, S.D. 2, H.D. 1, RELATING TO ELECTRONIC SMOKING PRODUCTS.

BEFORE THE:

HOUSE COMMITTEES ON CONSUMER PROTECTION & COMMERCE AND ON
JUDICIARY

DATE: Wednesday, March 20, 2019 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Clare E. Connors, Attorney General, or
Delanie D. Prescott-Tate, Deputy Attorney General

Chairs Takumi and Lee and Members of the Committees:

The Department of the Attorney General supports this bill and provides the following comments.

The bill seeks to address the health dangers caused by the rapidly growing use of electronic smoking devices in Hawaii, especially among the youth. This bill establishes the offense of unlawful shipment of e-liquid products to a person or entity that is not a licensee; increases licensing and permit fees for wholesalers, dealers, and retailers of cigarettes and tobacco products; funds tobacco and cancer prevention research programs; repeals part XII of chapter 28, Hawaii Revised Statutes (HRS), relating to the Electronic Smoking Device Retailer Registration Unit; and repeals section 245-27, HRS (Supp. 2018), relating to delivery sales.

This bill also seeks to include e-liquid, for the first time, within the definition of "tobacco products," which would place its regulation within the existing framework of the Department of Taxation. Retailers of e-liquid would now be required to obtain retail tobacco permits, and wholesalers and dealers of e-liquids would be required to obtain a license. This bill would allow the regulation of e-liquid products to be combined with the retail tobacco permitting process, a function already within the purview of the Department of Taxation, and would render the Electronic Smoking Device Retailer Registration Unit, recently created by 28-163, HRS (Supp. 2018), unnecessary.

The Department of the Attorney General supports the repeal of part XII of chapter 28, HRS (Supp. 2018), based upon this bill's goal of subjecting e-liquids to taxation and regulation under chapter 245, HRS. Including e-liquids within the same regulatory framework as other tobacco products would conserve resources and make the regulation of e-liquids a more efficient process for the public and retailers.

According to Standing Committee Report No. 1304, dated March 14, 2019, the Committee on Health expressed its concern that establishing the new offense of unlawful shipment of e-liquid products may conflict with the interstate commerce clause and violate equal protection.

First, it must be noted that section 2 of S.B. No. 1405, S.D. 2, H.D. 1, essentially adopts the wording of section 245-16, Hawaii Revised Statutes (HRS) (2017) (L 2004, c 157, section 2), which sets forth the offense of Unlawful Shipment of Cigarettes:

Unlawful shipment of cigarettes; penalty; reports; liability for unpaid taxes. (a) A person or entity commits the offense of unlawful shipment of cigarettes if the person or entity is engaged in the business of selling cigarettes and:

- (1) Ships or causes to be shipped any cigarettes to a person or entity in this State that is not:
 - (A) A licensee under this chapter; or
 - (B) An export warehouse proprietor pursuant to chapter 52 of the Internal Revenue Code, or an operator of a customs bonded warehouse pursuant to section 1311 or 1555 of title 19 of the United States Code;

Likewise, section 2 of S.B. No. 1405, S.D. 2, H.D. 1, page 7, lines 4 to 11, states:

Unlawful shipment of e-liquid products; penalty; reports; liability for unpaid taxes. (a) A person commits the offense of unlawful shipment of e-liquid products if the person:

- (1) Is engaged in the business of selling e-liquid products; and
- (2) Ships or causes to be shipped any e-liquid products to a person or entity in this State that is not a licensee under this chapter.

See, S.B. No. 1405, S.D. 2, H.D. 1, subsection (b) (1) and (2) on page 7, lines 12 to 20, which basically adopts the language of section 245-16(b)(1) to (2), HRS (Supp. 2018).

As can be seen from the above, S.B. No. 1405, S.D. 2, H.D. 1, replaces the term “cigarettes” with “e-liquid products” to create a new offense intended to allow e-liquids to be treated as tobacco products. As the legislative findings indicate, the inclusion of e-liquids in the Cigarette and Tobacco Tax Law is meant to address the significant risks to public health caused by e-cigarettes, a product designed to deliver nicotine, flavor, and other chemicals to the user.

“A cardinal rule of Commerce Clause jurisprudence is that no State, consistent with the Commerce Clause, may impose a tax which discriminates against interstate commerce by providing a direct commercial advantage to local business.” *Bacchus Imports, Ltd. v. Dias*, 468 U.S. 263, 268, 104 S. Ct. 3049, 3053 (1984) (internal quotation marks, ellipsis, and citation omitted). The Commerce Clause “is driven by concern about economic protectionism that is, regulatory measures designed to benefit in-state economic interest by burdening out-of-state competitors.” *Dep’t of Revenue of Ky., v. Davis*, 553 U.S. 328, 336, 128 S. Ct. 1801, 1807 (2008). Likewise, the Equal Protection Clause “forbids a State to discriminate in favor of its own residents solely by burdening the residents of other state members of our federation.” *Metropolitan Life Ins., Co. v. Ward*, 470 U.S. 869, 878, 105 S. Ct. 1676, 1682 (1985) (internal quotation marks and citation omitted).

The Commerce Clause and the Equal Protection Clause serve two “different functions in the analysis of the permissible scope of a State’s power – one protects interstate commerce, and the other protects persons from unconstitutional discrimination by the States.” *Id.* at 881, 105 S. Ct. at 1683. Here, the proposed legislation does not unconstitutionally discriminate against persons seeking to do business in Hawaii, nor does the proposed legislation seek to inhibit interstate commerce. Section 245-16, HRS (2017 & Supp. 2018), as well as section 2 of S.B. No. 1405, S.D. 2, H.D. 1, equally burdens in-state and out-of-state purveyors of cigarettes and e-liquids, respectively.

A person who engages in the business of selling e-liquids, may only ship or cause to be shipped¹ any e-liquid products to a person or entity in this State that is licensed under chapter 245, HRS. The term “license” means “a license granted under this chapter, that authorizes the holder to engage in the business of a wholesaler or dealer of cigarettes or tobacco products in the State.” Section 245-1, HRS (2017). The phrase “in this State” cannot be divorced from the word “licensee.” It is the State license that is important, not the source of the e-liquids. “Where the statute regulates evenhandedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits.” *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142, 90 S. Ct. 844, 847 (1970).

By restricting the delivery of e-liquids to those persons or entities licensed under chapter 245, HRS, the State will be able to restrict delivery of e-liquids to legitimate wholesalers or dealers of tobacco products. “Only if the burden on interstate commerce clearly outweighs the State’s legitimate purposes does such a regulation violate the Commerce Clause.” *Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 474, 101 S. Ct. 715, 729 (1981). The State has clearly expressed a legitimate public health purpose for enacting this legislation. Accordingly, the bill does not violate the Interstate Commerce Clause or the Equal Protection Clause.

Thank you for the opportunity to provide testimony and comments in support of this measure.

¹ The phrase “ship” or “causes to be shipped” is defined in section 245-1, HRS (2017), as “to **send by any means of transportation**, including by vessel, vehicle, or aircraft.” (Emphasis added.)

Date: March 20, 2019

To: The Honorable Roy M. Takumi, Chair
The Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce

The Honorable Chris Lee, Chair
The Joy A. San Buenaventura
House Committee on Judiciary

Re: Strong Support of SB1405, Relating to Electronic Smoking Products

Hrg: Wednesday, March 20, 2019 at 2:00pm at Capitol Room 329

Good afternoon to the members of the House Committee on Committee on Consumer Protection and Commerce and House Committee on Judiciary. Thank you so much for the opportunity to submit testimony in SUPPORT of SB1405. My name is Chelsea Gonzales, and I'm a Senior at the University of Hawaii at Manoa. I'm majoring in Public Health and currently the President for Breathe Aloha, a student registered independent organization dedicated to promoting positive health practices and protect University of Hawaii students, employees, and visitors from exposure to secondhand smoke and other potentially harmful substances.

We respect the fact that there are adults that choose to use e-cigarettes, and this bill isn't to restrict them. This is instead about making sure that we can keep these products out of the hands of middle schoolers and high schoolers. Our keiki will be a generation addicted to these products unless we take action now. And I have had the opportunity to talk to too many classmates who believe not only that these products are a safer alternative to cigarettes, but that these products are harmless.

If you believe that we need to address it, this bill will provide a direct benefit. With funds going to the Hawaii tobacco prevention and control fund, the public health community can go into schoolers and carry out the outreach that we need to educate our keiki. If you believe that public health's fight against traditional cigarettes has been effective over the past decades, give us the resources we need now, more than ever, to fight against e-cigarettes that are owned by these same tobacco companies.

We have and will continue to support tobacco prevention legislation because we firmly believe that nothing good ever comes from smoking. As an organization that has seen too many classmates use these products under the false pretense of these products being safe, I respectfully ask you to move this measure.

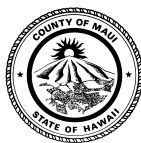
Mahalo,
Breathe Aloha Club at UH Manoa

Council Chair
Kelly T. King

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Alice L. Lee
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Maria E. Zielinski

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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March 19, 2019

TO: Honorable Representative Roy M. Takumi, Chair
House Committee on Consumer Protection & Commerce

Honorable Representative Chris Lee, Chair
House Committee on Judiciary

FROM: Tasha Kama
Presiding Officer Pro Tempore

DATE: March 19, 2019

SUBJECT: **Hearing of March 20, 2019; Testimony in SUPPORT of SB 1405 SD2
HD1, Relating to Relating to Electronic Smoking Products**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to address the promotion and sales of electronic smoking products.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I SUPPORT this measure for the following reasons:

1. Electronic smoking products have been growing dramatically and have a similar impact on the health of consumers.
2. Electronic smoking products are essentially nicotine delivery systems, as are traditional combustible smoking products, as such they should be regulated as traditional smoking products.